

REMARKS**1. Present Status of Patent Application**

This is a full and timely response to the outstanding non-final Office Action mailed August 18, 2005. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

2. Response to Rejection of Claims 1-37 under 35 U.S.C. § 112, First Paragraph

Claims 1-37 stand rejected under 35 U.S.C. § 112, First Paragraph, as purportedly "failing to comply with the written description requirement" in that the claim(s) purportedly "contain[] subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention." Applicant respectfully traverses the rejection

For example, in describing one embodiment, among others, the application states "[t]he gateway 14 processes the electronic messages in step 4 based on certain characteristics of the electronic message. These characteristics can include the size and type of the electronic message, for example, and the kind and size of one or more attachments associated with the electronic message." Para. 0023. Accordingly, Applicant respectfully submits that this portion of the specification, among others, describes and supports the claim limitation of "selectively denying transmission." See also para. 0035.

The application further states that "[o]ne benefit of this arrangement is that the full message and/or attachments need not be transmitted over the wireless bandwidth to the user on the wireless data network," where the application has acknowledged that there is a need for "improved methods and systems [that] should promote recipient access to at least a text portion of an electronic message when transmission of an attachment associated with the electronic message is not possible or permitted by the wireless network." See para 0005 and 0038. Applicant respectfully submits that these portions of the application, among others, provide support for the claim language "in recognition of limited available bandwidth in the wireless communication network," where this language points out and emphasizes that the claimed subject matter is regulating (e.g., "selectively denying") network communications and delivery based unilaterally upon message characteristics (e.g., message and/or attachment size) and not

based on user-based preferences (e.g., preferences designated by a recipient/sender on how message communications should be regulated and delivered). Applicant respectfully submits that the subject matter of claim 1, for example, is adequately supported and described by the flow of FIG. 1, in one embodiment, among others. Overall, Applicant respectfully submits that each of the claims is described and supported by one or more embodiments of the present application, in compliance with 35 U.S.C. §112, First Paragraph.

In that the rejections are believed to have been overcome, Applicant respectfully requests that the rejections of these claims be withdrawn.

3. Response to Rejection of Claims 1-37 under 35 U.S.C. § 112, Second Paragraph

Claims 1-37 stand rejected under 35 U.S.C. §112, Second Paragraph, as purportedly "being indefinite for failing to particularly point out and distinctly claim the subject which applicant regards as the invention" in that the claim language is purportedly "ambiguous due to the use of the term 'in recognition of limited available bandwidth.'" Applicant respectfully traverses the rejection.

As previously stated, the claim language "in recognition of limited available bandwidth in the wireless communication network" point outs and emphasizes that the claimed subject matter is regulating network communications based unilaterally upon message characteristics (e.g., message and/or attachment size) and not based on user-based preferences (e.g., preferences designated by a recipient/sender on how message communications should be regulated). Applicant believes this meets the requirements of 35 U.S.C. 112, Second Paragraph in that the language distinctly claims and particularly points out the claimed subject matter.

In that the rejections are believed to have been overcome, Applicant respectfully requests that the rejections of these claims be withdrawn.

4. Response To Rejections of Claims 1-30 and 33-37 Under 35 U.S.C. § 102(e)

In the Office Action, claims 1-30 and 33-37 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by *Mousseau* (U.S. Patent No. 6,438,585). For a proper rejection of a claim under 35 U.S.C. Section 102, the cited reference must disclose all elements/features/steps of

the claim. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

a. Mousseau Reference

Mousseau appears to disclose at most a "system and method of pushing user-selected data items from a host system to a user's mobile data communication device upon detecting the occurrence of one or more user-defined event triggers." Col. 2, lines 49-54. "A redirector program operating at the host system enables the user to redirect or mirror certain user-selected data items (or parts of data items) from the host system to the user's mobile data communication device upon detecting that one or more user-defined triggering events has occurred." Col. 2, lines 62-66. "The determination of whether a particular mobile device can receive and process attachments is preferably initially configured by the user of that mobile device at the host system." Col. 3, lines 49-52.

In consideration of the subject matter of the following claims, please note that *Mousseau* does not appear to teach or suggest a gateway to a wireless network, an ability to establish a network standard for determining whether to transmit an attachment, and the capability to solve one of the problems addressed by the present claims, namely that "improved methods and systems should promote recipient access to at least a text portion of an electronic message when transmission of an attachment associated with the electronic message is not possible or permitted by the wireless network." *See* para. 0005. *See also, Orthopedic Equipment Co. Inc. v. United States*, 702 F.2d 1005, 1009, 217 U.S.P.Q. 193 (Fed. Cir. 1983) ("In determining the relevant art of the claims in suit one looks to the nature of the problem confronting the inventor.").

b. Claim 1

A method for processing data in a wireless communication network, comprising:

receiving at least one electronic message having at least one attachment associated therewith ***at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols***, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages ***based unilaterally on message characteristics***

in recognition of the limited available bandwidth in the wireless communication network;

associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment; and

determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network.

(Emphasis added).

Applicant respectfully submits that independent claim 1 is allowable for at least the reason that *Mousseau* does not disclose, teach, or suggest at least "receiving at least one electronic message having at least one attachment associated therewith at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages based unilaterally on message characteristics in recognition of the limited available bandwidth in the wireless communication network," as recited in claim 1.

Rather, *Mousseau* discloses a system for delivering and receiving a message with attachment(s) at a network address of a host system and then resending or redirecting an attachment to a mobile device based solely upon attachment type. *See, e.g.*, Col. 8, lines 19-27. ("Also programmed into the redirector 11 is the address of the user's mobile data communication device 24, the type of the device, and whether the device 24 can accept certain types of attachments, such as word processing or voice attachments. If the user's type of mobile device cannot accept these types of attachments, the redirector 12 can be programmed to route the attachments to a fax or voice number where the user is located." Emphasis added.) In addition, *Mousseau* fails to disclose that the redirector program is located at a gateway for a wireless communication network. As described above, *Mousseau* also suggests a system dependent upon user configurations and user-device characteristics.

Therefore, *Mousseau* fails to disclose, teach, or suggest at least the features of "receiving at least one electronic message having at least one attachment associated therewith *at a gateway*

for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages *based unilaterally on message characteristics* in recognition of the limited available bandwidth in the wireless communication network," as recited in claim 1. (Emphasis added). For at least these reasons alone, *Mousseau* does not anticipate claim 1. Therefore, the rejection of claim 1 should be withdrawn.

c. Claims 2-19

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-19 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims 2-19 contain all the features of independent claim 1. Additionally and notwithstanding the foregoing reasons for allowability of claims 2-19, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

d. Claim 20

A system for processing data in a wireless communication network, comprising:

means for receiving at least one electronic message having at least one attachment associated therewith *at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols*, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages *based unilaterally on message characteristics* in recognition of limited available bandwidth in the wireless communication network;

means for associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment; and

means for determining whether to transmit each attachment, in a push operation, to a recipient of said message at a network address based on said

identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network.

(Emphasis added).

Applicant respectfully submits that independent claim 20 is allowable for at least the reason that *Mousseau* does not disclose, teach, or suggest "means for receiving at least one electronic message having at least one attachment associated therewith at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages based unilaterally on message characteristics in recognition of limited available bandwidth in the wireless communication network," as recited in claim 20.

Rather, *Mousseau* discloses a system for delivering and receiving a message with attachment(s) at a network address of a host system and then resending or redirecting an attachment to a mobile device based solely upon attachment type. *See, e.g.*, Col. 8, lines 19-27. ("Also programmed into the redirector 11 is the address of the user's mobile data communication device 24, the type of the device, and whether the device 24 can accept certain types of attachments, such as word processing or voice attachments. If the user's type of mobile device cannot accept these types of attachments, the redirector 12 can be programmed to route the attachments to a fax or voice number where the user is located." Emphasis added.) Additionally, *Mousseau* fails to disclose that the redirector program is located at a gateway for a wireless communication network. As described above, *Mousseau* also suggests a system dependent upon user configurations and user-device characteristics.

Therefore, *Mousseau* fails to disclose, teach, or suggest at least "means for receiving at least one electronic message having at least one attachment associated therewith *at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols*, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages *based unilaterally on message characteristics* in

recognition of limited available bandwidth in the wireless communication network," as recited in claim 20. (Emphasis added). For at least these reasons alone, *Mousseau* does not anticipate claim 20. Therefore, the rejection of claim 20 should be withdrawn.

e. Claims 21-22

Because independent claim 20 is allowable over the cited art of record, dependent claims 21-22 (which depend from independent claim 20) are allowable as a matter of law for at least the reason that the dependent claims 21-22 contain all the features of independent claim 20. Additionally and notwithstanding the foregoing reasons for allowability of claims 21-22, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

f. Claim 23

A computer-readable medium containing instructions for controlling a computer system to perform a method in a wireless communication environment, said method comprising:

receiving at least one electronic message having at least one attachment associated therewith *at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols*, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages *based unilaterally on message characteristics* in recognition of limited available bandwidth in the wireless communication network;

associating identifying indicia with each attachment in accordance with attachment file type and at least one additional characteristic of said attachment; and

determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network.

(Emphasis added).

Applicant respectfully submits that independent claim 23 is allowable for at least the reason that *Mousseau* does not disclose, teach, or suggest "receiving at least one electronic message having at least one attachment associated therewith at a gateway for the wireless

communication network, the gateway interfacing with at least one other communication network that uses different protocols, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages based unilaterally on message characteristics in recognition of limited available bandwidth in the wireless communication network," as recited in claim 23.

As previously explained with regard to claim 1, *Mousseau* seemingly teaches a redirector program that is not located at a gateway for a wireless communication network and suggests a system dependent upon user configurations and user-device characteristics.

Therefore, *Mousseau* fails to disclose, teach, or suggest at least "receiving at least one electronic message having at least one attachment associated therewith *at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols*, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages *based unilaterally on message characteristics* in recognition of limited available bandwidth in the wireless communication network," as recited in claim 23. (Emphasis added). For at least these reasons alone, *Mousseau* does not anticipate claim 23. Therefore, the rejection of claim 23 should be withdrawn.

g. Claims 24-25

Because independent claim 23 is allowable over the cited art of record, dependent claims 24-25 (which depend from independent claim 23) are allowable as a matter of law for at least the reason that the dependent claims 24-25 contain all the features of independent claim 23. Additionally and notwithstanding the foregoing reasons for allowability of claims 24-25, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

h. Claim 26

A system for processing an electronic message having at least one attachment associated therewith in a wireless communication network, said system comprising:

a *gateway of the wireless communication network* structured with an internal network to receive electronic messages from at least one source, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages *based unilaterally on message characteristics* in recognition of limited available bandwidth in the wireless communication network;

said gateway structured to identify each attachment of said electronic message with an indicia tag representative of attachment type and at least one additional characteristic of said attachment; and,

said gateway structured to transmit, in a push operation, at least a portion of each of said electronic messages to a recipient of said message in recognition of limited available bandwidth in the wireless communication network and in accordance with said indicia tag, wherein said transmitted portion includes at least clear text and *said gateway interfaces with at least one other communication network that uses different protocols.*

(Emphasis added).

Applicant respectfully submits that independent claim 26 is allowable for at least the reason that *Mousseau* does not disclose, teach, or suggest at least the features of "a gateway of the wireless communication network structured with an internal network to receive electronic messages from at least one source, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages based unilaterally on message characteristics in recognition of limited available bandwidth in the wireless communication network," where "said gateway interfaces with at least one other communication network that uses different protocols," as recited in claim 26.

Rather, *Mousseau* discloses a system for delivering and receiving a message with attachment(s) at a network address of a host system and then resending or redirecting an attachment to a mobile device based solely upon attachment type. *See, e.g.*, Col. 8, lines 19-27. ("Also programmed into the redirector 11 is the address of the user's mobile data communication device 24, the type of the device, and whether the device 24 can accept certain types of

attachments, such as word processing or voice attachments. If the user's type of mobile device cannot accept these types of attachments, the redirector 12 can be programmed to route the attachments to a fax or voice number where the user is located." Emphasis added.) In addition, *Mousseau* fails to disclose that the redirector program is located at a gateway for a wireless communication network. As described above, *Mousseau* also suggests a system dependent upon user configurations and user-device characteristics.

Therefore, *Mousseau* fails to disclose, teach, or suggest at least "a *gateway of the wireless communication network* structured with an internal network to receive electronic messages from at least one source, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages *based unilaterally on message characteristics* in recognition of limited available bandwidth in the wireless communication network," where "*said gateway interfaces with at least one other communication network that uses different protocols*," as recited in claim 26. (Emphasis added). For at least these reasons alone, *Mousseau* does not anticipate claim 26. Therefore, the rejection of claim 26 should be withdrawn.

i. Claims 27-30 and 33-37

Because independent claim 26 is allowable over the cited art of record, dependent claims 27-30 and 33-37 (which depend from independent claim 26) are allowable as a matter of law for at least the reason that the dependent claims 27-30 and 33-37 contain all the features of independent claim 26. Additionally and notwithstanding the foregoing reasons for allowability of claims 27-30 and 33-37, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

5. Response To Rejections of Claims 1-31 and 33-37 Under 35 U.S.C. § 103(a)

In the Office Action, claims 1-31 and 33-37 stand rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over *Foladare* (U.S. Patent No. 6,311,210) in view of *Mousseau*. For a proper rejection of a claim under 35 U.S.C. § 103, the teachings of the cited art references must suggest all features of the claimed subject matter to one of ordinary skill in the art. *See, e.g.,*

In re Dow Chemical, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

a. Foladare Reference

Foladare appears to disclose at most:

Based on the information retrieved from [a] profile database 165, [a] centralized electronic mail device 160 sends portions of [an] electronic mail message stored in memory to the designated electronic mail receiving devices 120-150. The portions of the electronic mail message sent to the electronic mail receiving devices 120-150 depends on the portions identified in the profile information retrieved and the amount of data that the device is able to receive and display. For example, if one of the electronic mail receiving devices 120-150 is an alpha pager, because of the limited display size, the portions of the electronic mail message that are sent to the alpha pager may be limited to the sending party name, title of the message, and time and date of sending. On the other hand, if one of the electronic mail receiving devices 120-150 is a personal digital assistant (PDA) or personal computer, for example, the entire electronic mail message may be sent to the PDA or personal computer. Col. 3, lines 36-54.

Using the above centralized electronic mail device 160, a receiving party may receive portions of an electronic mail message even when the electronic mail receiving device has a limited storage or limited display size. In this way, only those portions of the electronic mail message, which the receiving party deems the most important by identifying them in the profile database 165, are sent to the electronic mail receiving device 120-150. Thus, other information in the electronic mail message that the receiving party does not wish to see is not displayed. Col. 6, lines 8-17 (Note that a profile is maintained for a receiving party in profile database 165 See col. 5, lines 9-26).

In consideration of the subject matter of the following claims, please note that *Foladare* does not appear to teach or suggest a gateway to a wireless network, an ability to establish a network standard for determining whether to transmit an attachment, and the capability to solve one of the problems addressed by the present claims, namely that "improved methods and systems should promote recipient access to at least a text portion of an electronic message when transmission of an attachment associated with the electronic message is not possible or permitted by the wireless network." See para. 0005. See also, *Orthopedic Equipment Co. Inc. v. United*

States, 702 F.2d 1005, 1009, 217 U.S.P.Q. 193 (Fed. Cir. 1983) ("In determining the relevant art of the claims in suit one looks to the nature of the problem confronting the inventor.").

b. Claim 1

Applicant respectfully submits that independent claim 1 is allowable for at least the reason that *Foladare* in view of *Mousseau* does not disclose, teach, or suggest at least the features of "receiving at least one electronic message having at least one attachment associated therewith at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages based unilaterally on message characteristics in recognition of the limited available bandwidth in the wireless communication network," as recited in claim 1.

Rather, *Foladare* discloses a system for redirecting a message with attachment(s) to a mobile device based solely upon attachment type and profile information of a recipient. *See, e.g.*, col. 5, lines 9-26; and col. 6, lines 18-40. ("The determination of which type of attachments to send may be based on file extensions such as .doc, .txt, .exe, .bmp, and the like.")

Further, *Foladare* discloses that "it may not be desirable to have [attachments] sent to all of the receiving party's electronic mail receiving devices 120-150. For example, an alpha pager is not capable of displaying a bitmap file or executing programs." Col. 6, lines 27-30.

Moreover, *Foladare* fails to disclose that the centralized electronic mail device 160 is a gateway for a wireless communication network. As described above, *Foladare* also suggests a system dependent upon user configurations and user-device characteristics.

Therefore, *Foladare* fails to disclose, teach, or suggest at least the features of "receiving at least one electronic message having at least one attachment associated therewith *at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols*, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission

of attachments of electronic messages *based unilaterally on message characteristics* in recognition of the limited available bandwidth in the wireless communication network," as recited in claim 1. (Emphasis added).

As previously described, *Mousseau* is legally inadequate to remedy the deficiencies of the *Foladare* reference. For at least these reasons alone, *Foladare* in view of *Mousseau* does not disclose, teach, or suggest claim 1, and the rejection of claim 1 should be withdrawn.

c. Claims 2-19

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-19 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims 2-19 contain all the features of independent claim 1. Additionally and notwithstanding the foregoing reasons for allowability of claims 2-19, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

d. Claim 20

Applicant respectfully submits that independent claim 20 is allowable for at least the reason that *Foladare* in view of *Mousseau* does not disclose, teach, or suggest at least "means for receiving at least one electronic message having at least one attachment associated therewith at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages based unilaterally on message characteristics in recognition of limited available bandwidth in the wireless communication network," as recited in claim 20.

Rather, *Foladare* discloses a system for redirecting a message with attachment(s) to a mobile device based solely upon attachment type and profile information of a recipient. *See, e.g.*, col 5, lines 9-26; and col. 6, lines 18-40. ("The determination of which type of attachments to send may be based on file extensions such as .doc, .txt, .exe, .bmp, and the like.")

Further, *Foladare* discloses that "it may not be desirable to have [attachments] sent to all of the receiving party's electronic mail receiving devices 120-150. For example, an alpha pager is not capable of displaying a bitmap file or executing programs." Col. 6, lines 27-30.

Moreover, *Foladare* fails to disclose that the centralized electronic mail device 160 a gateway for a wireless communication network. As described above, *Foladare* also suggests a system dependent upon user configurations and user-device characteristics.

Therefore, *Foladare* fails to disclose, teach, or suggest at least the features of "means for receiving at least one electronic message having at least one attachment associated therewith *at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols*, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages *based unilaterally on message characteristics* in recognition of limited available bandwidth in the wireless communication network," as recited in claim 20. (Emphasis added).

As previously discussed, *Mousseau* is also legally inadequate to cure the deficiencies of the *Foladare* reference. For at least these reasons alone, *Foladare* in view of *Mousseau* does not disclose, teach, or suggest claim 20, and the rejection of claim 20 should be withdrawn.

e. Claims 21-22

Because independent claim 20 is allowable over the cited art of record, dependent claims 21-22 (which depend from independent claim 20) are allowable as a matter of law for at least the reason that the dependent claims 21-22 contain all the features of independent claim 20. Additionally and notwithstanding the foregoing reasons for allowability of claims 21-22, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

f. Claim 23

Applicant respectfully submits that independent claim 23 is allowable for at least the reason that *Foladare* in view of *Mousseau* does not disclose, teach, or suggest at least "receiving

at least one electronic message having at least one attachment associated therewith at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages based unilaterally on message characteristics in recognition of limited available bandwidth in the wireless communication network," as recited in claim 23.

As previously explained with regard to claim 1, *Foladare* seemingly teaches a centralized electronic mail device program that is not located at a gateway for a wireless communication network and suggests a system dependent upon user configurations and user-device characteristics.

Therefore, *Foladare* fails to disclose, teach, or suggest at least "receiving at least one electronic message having at least one attachment associated therewith *at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages based unilaterally on message characteristics in recognition of limited available bandwidth in the wireless communication network,*" as recited in claim 23. (Emphasis added).

As previously discussed, *Mousseau* is also legally inadequate to cure the deficiencies of the *Foladare* reference. For at least these reasons alone, *Foladare* in view of *Mousseau* does not disclose, teach, or suggest claim 23, and the rejection of claim 23 should be withdrawn.

g. Claims 24-25

Because independent claim 23 is allowable over the cited art of record, dependent claims 24-25 (which depend from independent claim 23) are allowable as a matter of law for at least the reason that the dependent claims 24-25 contain all the features of independent claim 23. Additionally and notwithstanding the foregoing reasons for allowability of claims 24-25, these

claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

h. Claim 26

Applicant respectfully submits that independent claim 26 is allowable for at least the reason that *Foladare* in view of *Mousseau* does not disclose, teach, or suggest at least "a gateway of the wireless communication network structured with an internal network to receive electronic messages from at least one source, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages based unilaterally on message characteristics in recognition of limited available bandwidth in the wireless communication network," where "said gateway interfaces with at least one other communication network that uses different protocols," as recited in claim 26.

Rather, *Foladare* discloses a system for redirecting a message with attachment(s) to a mobile device based solely upon attachment type and profile information of a recipient. *See, e.g.*, col 5, lines 9-26; and col. 6, lines 18-40. ("The determination of which type of attachments to send may be based on file extensions such as .doc, .txt, .exe, .bmp, and the like.")

Further, *Foladare* discloses that "it may not be desirable to have [attachments] sent to all of the receiving party's electronic mail receiving devices 120-150. For example, an alpha pager is not capable of displaying a bitmap file or executing programs." Col. 6, lines 27-30.

Moreover, *Foladare* fails to disclose that the centralized electronic mail device 160 a gateway for a wireless communication network. As described above, *Foladare* also suggests a system dependent upon user configurations and user-device characteristics.

Therefore, *Foladare* fails to disclose, teach, or suggest at least "a **gateway of the wireless communication network** structured with an internal network to receive electronic messages from at least one source, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages **based unilaterally on message characteristics** in recognition of limited available bandwidth in the wireless communication network," where "said gateway interfaces with at least one other

communication network that uses different protocols," as recited in claim 26. (Emphasis added).

As previously discussed, *Mousseau* is also legally inadequate to cure the deficiencies of the *Foladare* reference. For at least these reasons alone, *Foladare* in view of *Mousseau* does not disclose, teach, or suggest claim 26, and the rejection of claim 26 should be withdrawn.

i. Claims 27-31 and 33-37

Because independent claim 26 is allowable over the cited art of record, dependent claims 27-31 and 33-37 (which depend from independent claim 26) are allowable as a matter of law for at least the reason that the dependent claims 27-31 and 33-37 contain all the features of independent claim 26. Additionally and notwithstanding the foregoing reasons for allowability of claims 27-31 and 33-37, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

6. Response To Rejections of Claims 1-11, 13-15, 20-34, 36, and 37 Under 35 U.S.C. § 103(a)

In the Office Action, claims 1-11, 13-15, 20-34, 36, and 37 stand rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over *Beyda* (U.S. Patent No. 6,275,850) in view of *Foladare*. For a proper rejection of a claim under 35 U.S.C. § 103, the teachings of the cited art references must suggest all features of the claimed subject matter to one of ordinary skill in the art. See, e.g., *In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

a. *Beyda* reference

Beyda appears to disclose at most:

A method and system provide user management of electronic message transmissions between servers and client devices, particularly transmissions of files attached to electronic messages. The method and system operate to transfer selected attached files to and from a client device. When accessing electronic messages with attached files stored at a server by a user, the attached files that satisfy a prescribed requirement are automatically downloaded from the server to

the client device utilized by the user. The prescribed requirement may include maximum file size and download time, and approved list of file formats and senders. Preferably, the prescribed requirement is entered into the client device by the user. The prescribed requirement can vary depending upon the personal preference of the user. When forwarding received electronic messages with attached files, only the attached files that have been modified are uploaded from the client device to the server. *See Abstract.*

The client devices 16, 18 and 30 are illustratively represented by the client device 14, since the client devices 14, 16, 18 and 30 may be identically configured with respect to the internal components of each client device. Similar to FIG. 1, the client device 14 is shown connected to the local router/server 12 via the communication link 20. The client device 14 is shown to contain a processor 38 that is coupled to a transceiver 40, an attachment filter 42, and a memory 44. . . . The attachment filter 42 is a programmable component that can determine which attached files are to be downloaded from the local router/server 12 to the memory 44 of the client device 14. Preferably, the attachment filter 42 allows the receiving party to input the requirement that must be satisfied in order for attached files to be automatically downloaded. Cols. 4-, lines 62-14.

In addition, the attachment filter 42 can be configured to only allow files in certain formats to be auto-downloaded. For example, the attachment filter 42 may be configured to auto-download only JPEG or TIF format files. In this manner, the receiving party may control not only the files in certain formats, but also the types of files. That is, by allowing only files in graphics formats to be downloaded, the receiving party can effectively limit the auto-download feature to downloading graphics files. The receiving party may utilize any one of the above-described criteria alone or in combination to tailor the requirement to his/her desire. The attachment filter 42 may also have a default setting that may include one or more criteria. Col. 6, lines 50-62.

In consideration of the subject matter of the following claims, please note that *Beyda* does not appear to teach or suggest a gateway to a wireless network, an ability to establish a network standard for determining whether to transmit an attachment, and the capability to solve one of the problems addressed by the present claims, namely that "improved methods and systems should promote recipient access to at least a text portion of an electronic message when transmission of an attachment associated with the electronic message is not possible or permitted by the wireless network." *See para. 0005. See also, Orthopedic Equipment Co. Inc. v. United States*, 702 F.2d 1005, 1009, 217 U.S.P.Q. 193 (Fed. Cir. 1983) ("In determining the relevant art of the claims in suit one looks to the nature of the problem confronting the inventor.").

b. Claim 1

Applicant respectfully submits that independent claim 1 is allowable for at least the reason that *Beyda* in view of *Foladare* does not disclose, teach, or suggest at least "receiving at least one electronic message having at least one attachment associated therewith at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages based unilaterally on message characteristics in recognition of the limited available bandwidth in the wireless communication network," as recited in claim 1.

Rather, *Beyda* discloses a system for delivering and receiving a message whereby the receiving party initiates the downloading of messages including attachments from a router/server 12. See, e.g., col. 5, lines 23-36. "Preferably, the attachment filter 42 allows the receiving party to input the requirement that must be satisfied in order for attached files to be automatically downloaded." Col. 5, lines 10-14 (Emphasis added). "In this manner, the receiving party may control not only the files in certain formats, but also the types of files." Col. 6, lines 50-62. Further, the attachment filter is located within a client device. Col. 2, lines 42-44.

Moreover, *Beyda* fails to disclose a gateway for a wireless communication network, as described in the above claim. As described above, *Beyda* also suggests a system dependent upon user configurations and user-device characteristics.

Therefore, *Beyda* fails to disclose, teach, or suggest at least "'receiving at least one electronic message having at least one attachment associated therewith *at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols*, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages *based unilaterally on message characteristics* in recognition of the limited available bandwidth in the wireless communication network," as recited in claim 1. (Emphasis added). As previously discussed, *Foladare* is also legally inadequate to cure the deficiencies of the *Beyda* reference. For at least these reasons alone,

Beyda in view of *Foladare* does not disclose, teach, or suggest claim 1. Therefore, the rejection of claim 1 should be withdrawn.

c. Claims 2-11 and 13-15

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-11 and 13-15 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims 2-11 and 13-15 contain all the features of independent claim 1. Additionally and notwithstanding the foregoing reasons for allowability of claims 2-11 and 13-15, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

d. Claim 20

Applicant respectfully submits that independent claim 20 is allowable for at least the reason that *Beyda* in view of *Foladare* does not disclose, teach, or suggest at least the features of "delivery of the electronic message having at least one attachment [being] limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages in recognition of limited available bandwidth in the wireless communication network" and "means for determining whether to transmit each attachment, in a push operation, to a recipient of said message based on said identifying indicia of a respective attachment in recognition of limited available bandwidth in the wireless communication network," as recited in claim 20.

Rather, *Beyda* discloses a system for delivering and receiving a message whereby the receiving party initiates the downloading of messages including attachments from a router/server 12. *See, e.g.*, col. 5, lines 23-36. "Preferably, the attachment filter 42 allows the receiving party to input the requirement that must be satisfied in order for attached files to be automatically downloaded." Col. 5, lines 10-14 (Emphasis added).

Moreover, *Beyda* fails to disclose a gateway for a wireless communication network, as described in the above claim. As described above, *Beyda* also suggests a system dependent upon user configurations and user-device characteristics.

Therefore, *Beyda* fails to disclose, teach, or suggest at least the features of "means for receiving at least one electronic message having at least one attachment associated therewith *at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols*, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages *based unilaterally on message characteristics* in recognition of limited available bandwidth in the wireless communication network," as recited in claim 20. (Emphasis added). As previously discussed, *Foladare* is also legally inadequate to cure the deficiencies of the *Beyda* reference. For at least these reasons alone, *Beyda* in view of *Foladare* does not disclose, teach, or suggest claim 20. Therefore, the rejection of claim 20 should be withdrawn.

e. Claims 21-22

Because independent claim 20 is allowable over the cited art of record, dependent claims 21-22 (which depend from independent claim 20) are allowable as a matter of law for at least the reason that the dependent claims 21-22 contain all the features of independent claim 20. Additionally and notwithstanding the foregoing reasons for allowability of claims 21-22, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

f. Claim 23

Applicant respectfully submits that independent claim 23 is allowable for at least the reason that *Beyda* in view of *Foladare* does not disclose, teach, or suggest at least "receiving at least one electronic message having at least one attachment associated therewith at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of

electronic messages based unilaterally on message characteristics in recognition of limited available bandwidth in the wireless communication network," as recited in claim 23.

As previously explained with regard to claim 1, *Beyda* seemingly teaches an attachment filter that is not located at a gateway for a wireless communication network and suggests a system dependent upon user configurations and user-device characteristics.

Therefore, *Beyda* fails to disclose, teach, or suggest at least the features of "receiving at least one electronic message having at least one attachment associated therewith *at a gateway for the wireless communication network, the gateway interfacing with at least one other communication network that uses different protocols*, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages *based unilaterally on message characteristics* in recognition of limited available bandwidth in the wireless communication network," as recited in claim 23. (Emphasis added). As previously discussed, *Foladare* is also legally inadequate to cure the deficiencies of the *Beyda* reference. For at least these reasons alone, *Beyda* in view of *Foladare* does not disclose, teach, or suggest claim 23. Therefore, the rejection of claim 23 should be withdrawn.

g. Claims 24-25

Because independent claim 23 is allowable over the cited art of record, dependent claims 24-25 (which depend from independent claim 23) are allowable as a matter of law for at least the reason that the dependent claims 24-25 contain all the features of independent claim 23. Additionally and notwithstanding the foregoing reasons for allowability of claims 24-25, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

h. Claim 26

Applicant respectfully submits that independent claim 26 is allowable for at least the reason that *Beyda* does not disclose, teach, or suggest "a gateway of the wireless communication network structured with an internal network to receive electronic messages from at least one

source, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages based unilaterally on message characteristics in recognition of limited available bandwidth in the wireless communication network," where "said gateway interfaces with at least one other communication network that uses different protocols," as recited in claim 26.

Rather, *Beyda* discloses a system for delivering and receiving a message whereby the receiving party initiates the downloading of messages including attachments from a router/server 12. *See, e.g.*, col. 5, lines 23-36. "Preferably, the attachment filter 42 allows the receiving party to input the requirement that must be satisfied in order for attached files to be automatically downloaded." Col. 5, lines 10-14 (Emphasis added). "In this manner, the receiving party may control not only the files in certain formats, but also the types of files." Col. 6, lines 50-62. Further, the attachment filter is located within a client device. Col. 2, lines 42-44.

Moreover, *Beyda* fails to disclose a gateway for a wireless communication network, as described in the above claim. As described above, *Beyda* also suggests a system dependent upon user configurations and user-device characteristics.

Therefore, *Beyda* fails to disclose, teach, or suggest at least "a *gateway of the wireless communication network* structured with an internal network to receive electronic messages from at least one source, wherein delivery of the electronic message having at least one attachment is limited by available bandwidth in the wireless communication network, the wireless communication network selectively denying transmission of attachments of electronic messages *based unilaterally on message characteristics* in recognition of limited available bandwidth in the wireless communication network," where "*said gateway interfaces with at least one other communication network that uses different protocols*," as recited in claim 26. (Emphasis added). As previously discussed, *Foladare* is also legally inadequate to cure the deficiencies of the *Beyda* reference. For at least these reasons alone, *Beyda* in view of *Foladare* does not disclose, teach, or suggest claim 26. Therefore, the rejection of claim 26 should be withdrawn.

i. Claims 27-34, 36, and 37

Because independent claim 26 is allowable over the cited art of record, dependent claims 27-34, 36, and 37 (which depend from independent claim 26) are allowable as a matter of law for at least the reason that the dependent claims 27-34, 36, and 37 contain all the features of independent claim 26. Additionally and notwithstanding the foregoing reasons for allowability of claims 27-34, 36, and 37, these claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record.

7. Response to Rejection of Claims 31 and 32 under 35 U.S.C. § 103(a)

In the Office Action, claims 31 and 32 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Mousseau*. For a proper rejection of a claim under 35 U.S.C. § 103, the teachings of the cited art reference must suggest all features of the claimed subject matter to one of ordinary skill in the art. *See, e.g., In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981). Because independent claim 26 is allowable over the cited art of record, dependent claims 31-32 (which depend from independent claim 26) are allowable as a matter of law for at least the reason that the dependent claims 31-32 contain all the features of independent claim 26.

CONCLUSION

Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. In addition, Applicant does not intend to admit anything regarding any other statements in the Office Action that is not explicitly referenced in this response. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,


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